IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4544 of 1999
with
CIVIL APPLICATION NO. 10727 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NARMADABEN KHUMANSINGH PADHIYAR

Versus

JAYESHBHAI AMBALAL PATEL

Appearance:
1. First Appeal No. 4544 of 1999
MS NIRMALA J JHALA for Petitioner No. 1
..... for Respondent No. 1-2
MR DARSHAN M PARIKH for Respondent No. 3

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 12/04/2002

ORAL JUDGEMENT

1. Narmadaben Khumansing Padhiyar-appellant has filed this First Appeal against judgement and award of the Motor Accident Claims Tribunal, Bharuch dated 14.8.1998 in Motor Accident Claims Petition No. 224 of 1990. The learned judge by his impugned judgement has awarded Rs. 28,270/- as compensation with running interest at the rate of 12% per annum.

2. Being aggrieved and dissatisfied with the aforesaid judgement and award of the Tribunal, the appellant has filed appeal on 16.7.1999. There is a delay in filing the First Appeal. Hence the appellant has filed Civil Application No. 10727 of 1999 for condonation of delay.

3. I have gone through the application for condonation of delay. I have heard learned advocate for the appellant. Sufficient cause has been shown for delay in filing the appeal. Therefore, delay is condoned. The Civil Application is allowed. Rule is made absolute accordingly.

4. As regards merit of the matter, the learned judge has held that the claimant has sustained injuries because of rashness and negligence on the part of the driver of the vehicle involved in the accident and the learned judge has awarded Rs. 28,270/- as compensation. The injuries suffered by the claimant have been mentioned by the learned judge as per the certificate of the Medical Practitioner and it has been held that as per the certificate of Dr. Nagrani the claimant has sustained permanent disability at 12% for the lower limb. However, with the consent of the parties, permanent disability of the claimant is assessed at 5% for the body as a whole.

5. The learned judge has awarded a sum of Rs. 12,000/- under the head pain, shock and suffering. The learned judge has also awarded a sum of Rs. 4000/- towards medicines, treatment, attendance charges, vehicle expenses and special diet. A sum of Rs. 7770/- is awarded by the learned judge under the head loss. The learned judge has also awarded a sum of Rs. 4,500/- under the head future economic loss. In all the learned has awarded a sum of Rs. 28,270/-.

6. The learned counsel for the appellant has submitted that the learned judge ought to have given more amount to the claimant considering the injuries sustained by the claimant.

7. I have gone through the submissions made by the

learned counsel for the appellant and also the judgement under appeal. The learned judge has given a very cogent and convincing reason for awarding compensation of Rs. 28,270/-. I do not see any reason to interfere with the judgement and award of the Tribunal.

8. In view of the above observations, the appeal is dismissed with no order as to costs.

(K.M. MEHTA, J)

(pkn)